

**Refuge Water Supply Contract [MOU]
Negotiation Session August 9, 2000**

Summary of Meeting

Participants: Felix Arteaga [California Department of Fish & Game (CDFG)], Joel Miller (USFWS), Daniel Cardozo & Don Marciochi [Grassland Water District (GWD)], Jim Moore (Consulting GWD), Matt Franck (CH2M Hill), Stan Yarbrough & Chuck Marshall (USBR-Sacramento), Jim Turner (Office of the Solicitor), Donald Bultema (USBR-Willows), Buddy Smith (USBR-Tracy), Sheryl Carter & Barbara Hidleburg (USBR-Fresno),

Public: Robert Stackhouse (Central Valley Project Water Users Association), Jon Rubin (KMTG for Westlands Water District), Judith Garland & Alan Thompson [EastBay Municipal Utility District (MUD)], and Becky Sheehan, (CFBF)

The session began at 10:00 a.m.

Stan Yarbrough asked all attendees to please sign the sign-in sheet. He then reviewed the Role of the Public during the negotiation session and mentioned the public would be provided the opportunity to comment at the end of the session.

Stan stated that Reclamation would be responsible for future revisions to the form of contract. He explained that for the next scheduled negotiation session, the draft contract will be tiered from Reclamation's 8/3/00 draft contract, which is being used for today's negotiation session.

Stan further explained that a website was being designed for posting the negotiation activities and documents. The Contractors' July 19th version will be posted to the site.

GWD expressed a misunderstanding relative to the previous process for producing the draft contract, when the July 19th version was produced.

With exception of the attached table, the following are agreed upon editorial contract changes.

- C Capitalize the term "Year" at page 5, Line 5. Lower case for term "water year" at Lines 8, 13, & 15. Insert the term "case" on page 17, at Line 8. Add the term "her" at page 20, Line 10. Add the terms "water for" at Line 14. Make the term "boundaries" into a singular term "boundary" at page 28, Line 2. Delete the term Reclamation" at page 4, Line 1.

Stan suggested to the Contractors, that rather than editing the form of contract, to simply extract only the specific articles, to which they have agreed to provide changes.

Contractors agreed to provide their proposed language changes to Reclamation via electronic mail by Wednesday, August 16, 2000.

Mr. Yarbrough closed the negotiations at 3:05 p.m., then he opened the floor for public comments. Mr. Alan Thompson, East Bay MUD commented:

- C He asked about the negotiation process after reaching agreement on the form of contract?

Stan Yarbrough explained that the contract would be published for a 60-day public review period.

Buddy Smith responded in saying, the contract will be edited and sent to negotiating parties for their acceptance of the contract form. Then the 60 day public review period begins whereby comments on the contract are addressed. If comments are significant, negotiators may return to

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the table. In the meantime, the environmental review for the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) will under go public review after which, the contractors will sign the final contract first then Reclamation's execution of the contract will follow.

Buddy further explained that Reclamation would respond to and/or acknowledge public comments.

Jim Turner added that the public comments along with Reclamation's responses are prepared and provided to the Regional Director and/or Reclamation parties signing the contracts.

Mr. Bob Stackhouse, CVPWUA commented:

- C He asked when will Reclamation consolidate the agreed upon contract changes and distribute the form of contract before the next negotiation session? and If each version will be posted on the web?

Jim Turners said Reclamation will attempt to provide the revised version of the contract by August 18, 2000.

Stan Yarborough answered yes, contracts dated 6/12 & 8/3 for Reclamation and Contractors' contracts dated 7/6 & 7/19 will be posted. He further stated that the turn around period for web postings is only one day. He agreed to forward an E-mail to the negotiation participants and attendees, when posting is available.

- C BStackhouse asked when the rescheduling guidelines would be updated?

Buddy Smith explained that in the past, updates were implemented either during the Summer or Fall but, with the Refuge Contracts, Reclamation may need to consider different timing. He further stated that MP-440 process and/or prepares the guidelines for the Regional Directors' signature.

- C BStachouse asked about stakeholders involvement and said it should be CVP wide.

BSmith said, the Water Authority had been involved in the past but, Reclamation may need to expand the stakeholders' involvement.

Mr. Jon Rubin, KMTG for WWD commented:

- C He questioned the rescheduling fee and storage capacity?

BSmith responded that both the rescheduling fee and the storage capacity would be addressed on an annual basis within the guidelines.

- C Mr. Rubin said, contract Article 9(b), page 19 goes beyond the authority of CVPIA because, CVPIA does not restrict to a Critically Dry period. He further stated that discharges from the Refuges should be addressed.

BSmith said, Article 13(b) does address Refuges.

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- C Mr. Rubin asked why is Reclamation waiting for one-year after contract execution to adopt the criteria? He asked why the criteria isn't being developed concurrently?

Reclamation provided no response.

Negotiation session closed at 3:25 p.m.

Areas within the maps are to be addressed during the next negotiation session.

Next sessions tentatively scheduled for August 22, 2000, 10:00 a.m. - 4:00 p.m. in Sacramento at the Cafeteria Building on Cottage Way.

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Action Items

USBR: Provide revised version of contract by August 18, 2000.

Article 1 (g): Reclamation okay with deleting language from lines 2 through 7 providing we include "as specified & depicted in exhibit b" at page 7 lines 2 and 9. Then deleting remainder of page 7, lines 10 through 18.

Article 1 (k): Review language in comparison with Article 18.

Article 3(a): Review "up to" language on page 10, line 7.

Article 3(b): Consider looking at GWD's proposed language and/or striking article form contract.

Article 3(e): Consider striking the last clause on page 12, lines 2 & 3.

Article 4(a): Review and clarify Level 2 & Incremental Level 4 Water Supply issues during non-critical year.

Article 6(b): Look at Incremental Level 4 & "approval by Contracting Officer."

Article 7(a): Review language.

Article 8(b): Clarify U.S. role of reducing flows verses some other party to the system.

Article 12(a): Review language on page 20, line 9.

Article 17(a): Draft language for the end of sub-article 17(a) to address criteria development.

Article 17(c): Reconsider restricting language to Refuges only.

Article 18: Review and reconsider language. (JTurner asked what lands were considered within the 1989 reports?)

Article 24: JTurner to review & consider Reclamation's omitting the article.

CONTRACTORS:

Explanatory Recital 8: Still reviewing language to include individuals levels for each.

Article 1 (g), (h), & (i): Provide revised language and move highlighted language to a new article 3.

Article 2 : Okay providing right to renew is included. Provide proposed language.

Article 3 (a), (b), & (e): Provide language.

Article 7(a): Review language.

Article 18: Review language.

Article 22: Review language.